

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JENNIFER BRADLEY,

Plaintiff,

vs.

NCAA, *et al.*,

Defendants.

Civil Action No. 16-0346 (RBW)

**DEFENDANT UNITED STATES OF AMERICA’S
MOTION FOR SUMMARY JUDGMENT**

Defendant the United States of America (“United States”), by and through the undersigned counsel, respectfully moves for summary judgment under Rule of 56 of the Federal Rules of Civil Procedure. The United States moves for summary judgment on the grounds that there are no genuine issues of material fact on the issue of vicarious liability in this case. Under the District of Columbia’s borrowed servant doctrine, the United States is entitled to judgment as a matter of law and should be terminated as a defendant in this action because liability based on Plaintiff’s claim of medical malpractice, if any, rightfully falls on Co-Defendant Dr. David L. Higgins, M.D. or his professional corporation Co-Defendant Dr. David L. Higgins, M.D., P.C.

In the alternative, in the event that the Court finds there is a genuine issue of material fact with respect to vicarious liability, the United States moves for summary judgment on the grounds that Plaintiff was contributorily negligent when she failed to provide then-U.S. Army Major (Dr.) Aaron Williams, D.O. with information that would have resulted in Dr. Williams reaching the medical conclusion that Plaintiff likely sustained a concussion while playing field hockey as an American University student athlete. And, the United States moves for summary judgment on the grounds that it is entitled to judgment as a matter of law on Plaintiff’s claim of negligent

infliction of emotional distress because there is no factual or legal basis upon which to find that Dr. Williams had a special relationship with Plaintiff outside of the normal duty of care owed by a doctor to a patient.

This motion is accompanied by a proposed order, a supporting memorandum of points and authorities, a statement of material facts not in genuine dispute, an index of exhibits, and the exhibits to this motion.

Dated: January 16, 2019

Respectfully submitted,

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for the District of Columbia

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CERTIFICATE OF SERVICE

I certify that on this 16th day of January 2019, I served the foregoing motion for summary judgment with accompanying proposed order, supporting memorandum of points and authorities, statement of material facts not in genuine dispute, index of exhibits, and the exhibits to the motion upon counsel for all parties in this case by filing said documents using the Court's Electronic Case Filing System.

Dated: January 16, 2019

/s/ Roberto C. Martens, Jr.
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